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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/463,541	03/09/2000	MARK SIEVERT LARSEN	CU-2114TJK	6460

26530 7590 12/19/2003

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CHICAGO, IL 60604

EXAMINER

SOBUTKA, PHILIP

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 12/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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7

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Commissioner for Patents

Office Action Summary

Application No.

09/463,541

Applicant(s)

LARSEN ET AL.

Examiner

Philip J. Sobutka

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Pre-Amendment A filed 27 January 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 14-19 is/are rejected.
- 7) ☒ Claim(s) 7-13 and 20-23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1,3-6,14,15,17-19, are rejected under 35 U.S.C. 102(e) as being anticipated by Otten (US 5,835,857).

Consider claim 14. Otten teaches a system comprising transmitting and receiving data (Otten see especially fig 1a) processors for monitoring at each station path quality (loss) between stations, recording the path data, controlling transmission power based on the path data when transmitting (Otten col 14, line 61 – col 15, line 30), and transmitting path data when transmitting other data between stations, so that path data recorded at a first station is communicated to the second station for use by the second station (Otten see especially col 14, lines 50-60).

As to claim 1, the system of Otten would perform the claimed steps.

As to claims 3,15, note that path quality is measured by comparing measured power to transmission power (Otten col 4, line 60 – col 5, line 8).

As to claims 4,17, note that power is adjusted by difference between received and stored values (Otten see especially col 15, line 3 – col 16, line 30).

As to claims 5,6, 18,19, note that Otten also adjusts power based on rate or change data (Otten see especially Otten col 14, lines 30-50).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 2,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Otten in view of Kremm et al (US 5,943,606).

Note that Otten teaches monitoring path loss (Otten see especially col 4, line 66 p col 5, line 8), phase distortion (Otten see especially col 13, lines 30-37), time delay (Otten see especially col 9, lines 1-10) and multi-path (Otten see especially col 12, lines 37-58). Otten lacks a teaching of monitoring Doppler shift. Kremm mobile communication arrangement that monitors Doppler shifts in order to better compensate

for errors (Kremm see especially col 4, line 38 – col 5, line 50). It would have been obvious to one of ordinary skill in the art to modify Otten to also monitor Doppler shift as taught by Kremm in order to better compensate for error.

Allowable Subject Matter

6. Claims 7-13,20-23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Consider claim 7. the nearest prior art as shown in Otten fails to teach the method of claim 6, wherein each station monitors the transmission of other stations to obtain path quality data so that a first station monitoring transmission from a second station within range of the first station to a third station out of range of the first station can obtain path quality data relating to the third station.

Consider claim 20. The nearest prior art as shown in Otten fails to teach the apparatus of claim 19, wherein the processor means is arranged to monitor the path quality data in transmissions of other stations, that a first station monitoring transmission from a second station within range of the first station to a third station out of range of the first station can obtain path quality data relating to the third station.

Claim Objections

7. Claim 7 is objected to because of the following informalities: in 4, "our of range" should be – out of range -- . Appropriate correction is required.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip J. Sobutka whose telephone number is 703-305-4825. The examiner can normally be reached on Monday-Friday 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 703-308-7745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Philip Sobutka

Pjs
December 14, 2003


NAY MAUNG
SUPERVISORY PATENT EXAMINER